CORPS OF ENGINEERS NEW CONSTRUCTION STARTS FOR FISCAL YEAR 1983

HEARING

BEFORE THE

SUBCOMMITTEE ON WATER RESOURCES

OF THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

UNITED STATES SENATE

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CORPS OF ENGINEERS NEW CONSTRUCTION STARTS FOR FISCAL YEAR 1983

FRIDAY, JUNE 18, 1982

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON WATER RESOURCES,
Washington, D.C.

The subcommittee met at 10:15 a.m., in room 4200, Dirksen Senate Office Building, Hon. Robert T. Stafford (chairman of the full committee) presiding.

Present: Senators Stafford, Abdnor, and Moynihan.

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator STAFFORD. The Subcommittee on Water Resources will please come to order.

I am, frankly, presuming on the subcommittee chairman, Mr. Abdnor, to get the subcommittee started, and as soon as he arrives I will yield the gavel to him. But I appreciate the opportunity to sit with the Subcommittee on Water Resources to hear some of Mr. Gianelli's testimony.

Developing a responsible water resource program is a major task confronting this committee. Secretary Gianelli's work will provide a major step in that direction. While I am not certain about some of the specific projects or percentages, I am pleased that Secretary Gianelli is confronting the hard decisions we all must eventually face as we look to the future of water resource development. Secretary Gianelli has realized and has had the courage to state that the Federal Government can no longer afford to fund all new water project construction. Local project sponsors must become more involved in the planning and financing of new projects.

I look forward to Secretary Gianelli's testimony and to the discussion on his approach to the overall issue of cost sharing.

I wish at this point to commend the subcommittee chairman, Mr. Abdnor, whose spot I have temporarily usurped in going forward with the hearing. I expect the dialog with Mr. Gianelli will help us resolve some of the very serious challenges which face this subcommittee, and indeed the Nation.

I see that the chairman of the subcommittee is here and I will yield the gavel to him right now. I do have several questions.

Senator ABDNOR. Why don't you go right ahead, Mr. Chairman. I know you have to leave soon.

Senator STAFFORD. Thank you, Senator Abdnor. I do have some questions.

Mr. Gianelli, I would state a problem outside the scope of this hearing has just come to my attention, a problem involving the corps' regulations on bid revisions. I have written to General Bratton on this issue, and I shall give you a copy of that letter as well as the correspondence I have received. I would ask, although you are not yet at the witness table, that you please do what you can to help us obtain an early answer to questions in order to clarify the issue in question.

With that, I would ask, Mr. Chairman, that the letter in question be a part of the record at this point, and I will yield the gavel to you.

[The letter referred to follows:]

JUNE 17, 1982.

Lt. Gen. JOSEPH K. BRATTON,
Chief of Engineers, U.S. Army Corps of Engineers,
Washington, D.C.

DEAR GENERAL BRATTON: Enclosed is a copy of various correspondence I have received from Otto A. Engelberth, President of Engelberth Construction, Inc., in Winooski, Vermont. These letters concern the award of a contract for work at Winooski (IFB No. DAC51-82-B-0049). Mr. Engelberth raises some very legitimate questions regarding the priority of allowing a bidder to correct his "mistakes."

"The government apparently is not aware of how easy it is for a bidder to plan an error, knowing that he would be able to revise his bid upward after all bids are known, and still be assured of getting the job," Mr. Engelberth says. He describes the Corps regulations as "an open invitation to fraud."

In a May 17, 1982, response, the office of Michael J. Adams, New York district counsel, stated: ". . . if the evidence is clear and convincing both as to the existence of the mistake and as to the bid actually intended, and if the bid, both as uncorrected and as corrected, is the lowest received, a determination may be made to correct the bid and not permit its withdrawal. Such a determination may only be made after the bid opening and after all the bid prices are known."

To assist me and my colleagues on the Committee on Environment and Public Works, please describe specifically what is done by the Corps to prevent fraud in bid revisions, to prevent a contractor from making a purposeful "mistake" on his initial bid, then correcting it upward to a level just beneath the known second low bidder? Please explain how "clear and convincing" evidence of a mistake in a bid is determined?

In addition, would you describe the exact nature of the 11½% error in the contract on the Winooski work? Would you also provide for the Committee an estimate on the percentage of the Corps winning bids that are revised due to mistakes?

My thanks for your assistance in providing an early response to these questions.

Sincerely yours,

ROBERT T. STAFFORD.
Chairman.

OPENING STATEMENT OF HON. JAMES ABDNOR, U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator ABDNOR (presiding). Thank you, Mr. Chairman. You got us off to a good start.

We are here, of course, to hear Assistant Secretary of the Army William Gianelli, and, Mr. Gianelli, we welcome you here. We are going to discuss his proposals for new water project starts. At the start of the discussion we hope to learn about the administration's long-term plans for changes in the cost-sharing policy. This is, as far as I am concerned, one of the most important issues to face this subcommittee.

I think we all understand that if we are going to build new projects we inevitably have to acquire new and innovative funding schemes, possibly involving local project sponsors to a greater degree. However, as much as we understand this reality, it may be difficult to make the people back home understand this.

Secretary Gianelli is certainly to be commended for assuming this mantle as a bearer of bad tidings, sometimes called reality. He has done us all a favor, particularly the local project sponsors of these nine projects. He has convinced them and he has convinced others that times have changed and that we have to look at not just Federal money but other sources of funding for these projects. I know it is a difficult task and I am pleased that he has taken it this far. I must say anybody who can convince OMB these days that the Federal Government should start something new really has accomplished a great deal. While I am pleased that Secretary Gianelli has taken the lead on this issue, I am interested in what he will say about these specific projects. I believe it is more important to focus on the overall issues. We need to have a consistent policy, one that is relevant to all projects yet one that recognizes past obligations.

I want to say also, Mr. Gianelli, in welcoming you and General Gay and the other gentlemen, we are going to have an erratic schedule. We are in session now, taking amendments and votes, and no one knows how many times we are going to be called to vote. But we will certainly try to progress here as well as we can.

One thing I would say. This is an oversight committee. The projects have already been authorized. As I understand, you will be talking to us about new proposals. I see that these types of projects have different types of funding, and I am sure we are all going to have some questions on this.

I would like to point out that we are interested in individual projects, and I don't want to shut people off, but I think the first thing we should do is talk about the overall policy and some of these suggestions and projects you are putting forth, the background of your thinking. I also know of your great record in California which you accomplished, before coming to Washington, by new innovative proposals for water development. You have a record that everyone admires, and we are waiting to hear from you.

I will call on the ranking minority member of this subcommittee who contributes so much, Senator Moynihan.

Senator MOYNIHAN. Thank you, Mr. Chairman. I agree with all that you have said and look forward to hearing Secretary Gianelli, and welcome General Gay to our ranks.

Senator ABDNOR. Let us proceed. Secretary Gianelli, will you introduce General Gay and the other members of your party.

General Gay, incidentally, we do welcome you in your new capacity. We know you are going to be a great addition to the Corps of Engineers and to our committee. I have worked with you before and we are certainly looking forward to working with you in your new capacity.

General GAY. Thank you.

STATEMENT OF WILLIAM R. GIANELLI, ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS, ACCOMPANIED BY BRIG. GEN. FORREST T. GAY III, DEPUTY DIRECTOR OF CIVIL WORKS, CORPS OF ENGINEERS; ROBERT G. EILAND, SPECIAL STAFF ASSISTANT, OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS); AND BORY STEINBERG, CHIEF, PROGRAMS DIVISION, CORPS OF ENGINEERS

Mr. GIANELLI. Thank you very much, Mr. Chairman and Senator Moynihan. I would like to introduce first those who are with me at the table. First, as you indicated, Mr. Chairman, Mr. Ted Gay, who is the Deputy Director of Civil Works for the Corps of Engineers, is here on my left. I might say General Heiberg will be leaving his position as Director of Civil Works on the first of the month, and fortunately we will still have him with the corps. He will be the Deputy Chief the first of the month. In the meantime, General Gay will be acting in his capacity as Acting Chief of Civil Works.

Also, on my right is Mr. Robert Eiland, who is a special staff assistant who has been working with me the last year on these new projects. Mr. Eiland was with me in California. He is very familiar with what we are trying to do. He has been one of the people that has worked very closely with the local interest in putting together this new start program. I have asked him to be here with me today so he can answer any questions the committee may have and provide details.

On my far right is Bory Steinberg, who is the chief budget person and does many other things, very important with the Corps of Engineers and with the Chief's office.

With that in mind, Mr. Chairman, and pursuant to your letter of invitation dated June 3, I welcome the opportunity to discuss the President's budget recommendations for new construction starts for the Army Corps of Engineers in fiscal year 1983. My prepared statement is pretty brief. The details of the President's proposed budget amendment for new starts are included in my letter to you of May 25, and the attachments to that letter.

If it meets with the chairman's approval, what I would like to do is skip over pretty much to the questions the committee addressed to me, answer those questions, and then be available for any other matters the committee would like to address on this subject. I would like to have the entire statement as part of the record please, Mr. Chairman.

Senator ABDNOR. Without objection, the entire statement will be made a part of the record, and you proceed anyway you care to, Mr. Secretary.

Mr. GIANELLI. Very well.

Moving directly to the questions, before addressing the specific issues you asked me to address regarding the administration's fiscal year 1983 Army civil works new construction starts, I would like to note that we have not had a high degree of success developing new starts for navigational projects. We believe this is due in large part to the uncertainty over a generic cost-sharing formula for new navigational projects, as evidenced by the numerous legislative proposals currently pending before the Congress. I am convinced that once that formula is adopted, we can expect that a

number of navigational projects could be advanced as new starts, assuming substantial non-Federal financing is contemplated.

With respect to the specific issues in your letter of June 3, the first question you have asked, Mr. Chairman, is the proposed funding arrangements on each project and the timetable for initiating construction on these projects. You asked for some explanation and response to that item. Our response is as follows:

The funding arrangements for each project are set forth in the attached tabulation. Our timetable is to begin construction on each project in fiscal year 1983, as soon as the budget is enacted and a contract is negotiated with the local sponsors. In this regard, we are already preparing draft contracts for discussion with the sponsors. We, of course, cannot implement the provisions of any such contracts until the Congress has acted on the budget. In any case, October 1, 1982, is the earliest date when we could begin construction of any project.

I would like to add parenthetically, Mr. Eiland has been out this week, and will go out next week, meeting with the Corps District Offices where these projects would be located and has been meeting with the Corps of Engineers in terms of making certain that they understand the ground rules with respect to this program.

The second question that you have asked is the degree of commitment that we have received from each local sponsor.

Copies of the pertinent correspondence with each local sponsor were attached to my letter of May 25, to the committee.

In general, the commitments are official letters of intent signed by responsible local officials. These letters were developed on the basis of numerous contacts and meetings, and they indicate the sponsor's intention to specifically provide the non-Federal financing that we sought. The letters do not constitute contracts, but they are much more than a mere expression of interest.

In the case of the Strube Lake and Bonneville Fishway hydropower projects, we do not have firm letters of intent, but we have received written expressions of interest from two public power agencies in the area, and we consider the prospects of success to be very good for both of these projects. However, the probable necessity to advertise in the Federal Register and to resolve any legal restrictions relating to power marketing made it impossible to complete arrangements prior to submission of the budget amendment.

Your third question is the degree of flexibility remaining for funding of each of these projects.

I think as far as we are concerned there is no flexibility at all as far as the overall division of financing is concerned. For example, a local sponsor who agrees to pay 65 percent of the total cost of a multipurpose, reservoir project will be expected to pay that share by the time the project construction is complete. Normally, it would advance non-Federal financing each year in the amount of 65 percent of the actual expenditures in that year. However, we do have flexibility to vary the amounts in any year to fit local financing capabilities, so long as the overall percentage is met on the whole project. In some instances, it may be appropriate, for example, to provide a temporary advance of Federal funds pending a local sale of revenue bonds. We intend to be reasonable in such cases. For local flood protection projects, the sponsor will provide

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lands, easements, and rights-of-way and supplement its traditional financing requirement with a cash contribution where necessary to bring the non-Federal financing to 35 percent of the projects' cost.

Your fourth inquiry asked for any information that we can provide regarding administration proposals for statutory changes in existing cost-sharing arrangements. I think this goes, Mr. Chairman, to your question about what is happening in the administration from a broader standpoint in this area.

The administration has not yet completed its deliberations on the full spectrum of cost-sharing policies governing Federal water projects. However, the Cabinet Council—and I have been deeply involved with this—on Natural Resources and Environment will be forwarding shortly its proposals to the President. The initiatives we have taken for Civil Works Corps of Engineers fiscal year 1983 new construction starts are consistent with overall administration policies. While the administration's legislative program cannot be definitively stated at this time, a number of observations can be made.

First, existing project authorizations and generic legislation give the President and Congress a great deal of flexibility in applying new cost-sharing and financing policies to authorized projects. This flexibility is reflected in the fact that the nine new construction starts we have proposed for initiation in fiscal year 1983 required, we believe, no modifications in their authorizations to permit them to proceed under the new financing and cost-sharing arranagements we are proposing. Second, the administration will reflect its policies in the reports on projects it recommends be authorized in the future. Thus, new policies can be applied in the legislation authorizing these projects without any need for new generic legislation, we believe. Third, whenever legislation is necessary to modify existing policies, the administration will present its proposals to Congress as soon as possible so as not to constrain the implementation of important and productive projects any longer than necessary. I might say that has been going on specifically with respect to the navigation projects.

We are hopeful that most innovations can be made without new generic legislation because we are painfully aware of the complexity of the issues relating to the areas of user charges, cost recovery, financing and cost sharing which make them difficult for the Congress to address in a comprehensive way within a relatively short period of time.

Fourth, your inquiry is to the position of the administration on cost sharing in project studies.

I have long been concerned over several aspects of the corps' planning process. These concerns seem to be shared by Members of Congress and others interested in water resource development. Specifically, I am concerned with the length of time it takes to complete a typical feasibility study, the high cost of the individual studies, the high proportion of unfavorable studies upon which substantial resources have been expended, and the small share of studies resulting in projects that are actually authorized and ultimately funded. I therefore feel it is imperative that we take steps to allow the corps to concentrate its planning resources—and I am talking

about both manpower and budget—on the more important studies which have the best chance of implementation.

I am proposing that, beginning in fiscal year 1983, new studies pertaining to specific problem areas—and I am talking about other than inland navigation—be undertaken in two phases. The first phase will be a reconnaissance phase financed 100 percent with Federal funds and normally completed within a year at about 20 to 25 percent of the cost of the full study. The second phase will be a detailed feasibility study to be cost-shared with local project sponsors on a 50/50 basis with one-half of the non-Federal share available in the form of some sort of "in kind" services if the parties agree.

I would view the reconnaissance study to be fully funded when it receives its initial appropriation. The reconnaissance study would establish the following points:

First, it would define the problem and its potential solutions,

Second, there would be a determination of whether or not the study should proceed further, based on a preliminary appraisal of costs, benefits and environmental impacts of alternative solutions.

Third, there would be an estimate of the costs of the second phase of the feasibility study.

Fourth, there would be an identification of the local sponsor and an indication of its willingness to participate in the feasibility study on a cost-sharing basis.

I believe that this procedure will not only speed up the planning process, but will increase the proportion of studies which leads to successful solutions to problems.

Fifth, you asked for the reasons the administration did not propose a new start on projects, such as the Ellicott Creek flood control project in New York, that we originally recommended. Let me respond as follows:

The Ellicott project was a difficult case to handle. In the first place, the State had categorically rejected our offer on the Dansville project, which was another flood control project in New York, saying that any change from traditional cost sharing should be established by the Congress. The Ellicott project—along with three others—was added to our original list of 12 projects late in the game when minor impediments to its readiness for construction were removed. By coincidence, the cost estimate for the rights-of-way and relocations exceeded the 35 percent cost-sharing criterion that we established under our new formulas. On the other hand, the State's letter on the Ellicott project did not make it clear that it was accepting our program and our offer. And I have to say pretty much to the contrary, it made quite clear it was not accepting the administration proposals on new cost sharing and those theories. Nevertheless, we did originally include the project in the group of 10 projects to be considered.

In brief, when all projects were considered as a package, and after we had further dialog with the Office of Management and Budget, where we indicated we would make our recommendations, there was considerable doubt the State was really willing to participate in the program, in view of its previous rejection in the case of the Dansville project and of the qualifications in the State's letter of March 23. I can say as I reflect I think I probably erred

when I responded to the State letter of March 23 with respect to Ellicott and should have indicated, in light of their reluctance to proceed on any new basis and some concern with respect to that, we probably should not have included them in our final package. The offer agreed to by all other sponsors of flood control projects was to finance 35 percent of the costs allocated to flood control, or rights-of-way and relocations, whichever is greater. If the latter costs actually turned out to be less than 35 percent, then the State, in the case of Ellicott, would have received a better deal than anyone else, because I think the State made it very clear that it was not going to pay more than its share of land easements and rights-of-way, which as I indicated, by coincidence, were equal to about the 35 percent or a little in excess.

Last, Mr. Chairman, you asked for a discussion of the potential impacts of the use of this new marketplace test for projects as it affects the ability of less affluent States and regions to develop projects. And I might say when I appeared before the House Subcommittee on Water Resources a similar question was raised by them. I would like to respond as follows:

There have been some objections raised to the innovative financing approach we have proposed on the basis that these policies favor the more affluent States and regions. However, I don't believe this is the case. Our policies favor sound and productive projects nationwide. In the case of hydropower, water supply and both deep-draft and inland navigation, we have proposed that the beneficiaries bear 100 percent of the costs that might be allocated for those purposes. This is based on the fact that these functions are fully vendible and are fully comparable with private sector goods and services. Indeed, most electric power and a good share of water supply are supplied by private firms. The Federal Government provides only a minor share of both. In the case of costs that are assigned to commercial navigation, the complementary services necessary to realize the projects' benefits are subject to full cost recovery and market-based pricing.

While there is common agreement with this principle, some have argued that it does not follow that these project services should be financed by the non-Federal sector. However, the marketable nature of project services provides the basis for non-Federal financing through the sale of revenue bonds. When revenue bond financing is used, it is the certainty and magnitude of the potential project revenues which permit the project costs to be funded, not the wealth, or lack thereof, of the non-Federal party. Thus, it should not be argued that in the case of the vendible outputs we have favored the affluent regions.

In the case of other project purposes such as flood control and recreation, we have asked for considerably less than 100 percent non-Federal financing and cost sharing in recognition that the revenue bond approach is not appropriate. The amounts we are requesting, however, in our view, should be able to be contributed by the non-Federal sponsors if the project benefits are real.

The budget amendment to initiate construction of nine new starts reflects the administration's desire to construct good water projects that meet its cost-sharing and financial policies. I believe that the program for 1983 offers the opportunity to break the stale-

mate that has existed for some time in the overall program for water projects. I believe, Mr. Chairman, this proposal merits the support of the committee and the Congress. To that end, I would like to work cooperatively with you and in any way you and the committee may consider appropriate.

Mr. Chairman, this concludes my statement, and we will be pleased to respond to any questions or concerns that you may have. I would like to indicate that we will certainly respond to the question and inquiry raised by Chairman Stafford earlier. I understand that he has made his letter of inquiry available to us, and we in the corps will certainly respond.

Senator ABDNOR. Thank you, Mr. Secretary.

While we are at it, I would like to have for the record the letter that you sent the committee. I ask unanimous consent to make that part of the record.

[The letter referred to follows:]

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, D.C. 20310

25 MAY 1982

Honorable James Abdnor
Chairman
Subcommittee on Water Resources
Committee on Environment and
Public Works
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

The President today has submitted to Congress a budget amendment which proposes adjustments in the amounts programmed for certain projects in the Fiscal Year 1983 Civil Works Budget of the Army Corps of Engineers. The purpose of this letter is to provide additional data concerning this proposed amendment.

In the Fiscal Year 1983 Budget, the President indicated that funds for new construction starts that meet the Administration's criteria for non-Federal financing and cost sharing and that are economically and environmentally sound would be requested after consultation with the local project sponsors. The review by the Administration and the consultation are complete, and nine new construction starts have been approved for inclusion in the Fiscal Year 1983 Budget. While the President's Budget indicated that additional funds would be requested for the new construction starts, it is now possible to initiate the projects within the original $1,209.4 million proposed for Construction, General. A review of the program reveals that it is reasonable to expect that this can be accomplished without detriment to other projects.

The proposed new starts and their financing are described as follows:

Project	Purpose	Capital Cost	$ million Financing Federal	Local	Federal Funds 1983
Bradley Lake, AK	Hydro	$ 478.0	$ 0	$478.0	$ 6.0 2/
Strube Lake, OR	Hydro	106.0	0	106.0	0.4 2/
Bonneville Units, OR	Hydro	21.3	0	21.3	0.5 2/
Davenport, IA	UFC 1/	50.6	30.7	19.9	1.3
Kahoma, HI	UFC 1/	20.0	13.0	7.0	3.0
Merced, CA	UFC 1/	116.0	75.3	40.7	4.0
Virginia Beach, VA	UFC 1/	5.4	3.5	1.9	2.2
Randleman Lake, NC	MP 3/	159.0	68.7	90.3	8.2
Freeport Harbor, TX	4/	26.2	13.1	13.1	3.4
Total		$ 982.5	$ 204.3	$778.2	$29.0

1/ UFC - Urban Flood Control; 2/ Temporary Advance; 3/ MP - Multipurpose; and 4/ North Jetty replacement in lieu of rehabilitation of existing jetty (see page 3).

We have sought non-Federal, upfront financing in accordance with the following percentages, the primary basis of which is vendibility. The rationale is described in more detail in the attachment. The traditional percentages are shown in parentheses.

For Cost Allocated To	% Non-Federal Financing
Hydropower	100% (0%)
Municipal & Industrial Water	100% (0%)
Flood Control	35% (18% av.)
Separable Recreation	50% (50%)**
Commercial Navigation	75%* (-)***

*25% Federal financing is reimbursable.
**Either upfront or repayment.
***Disposal areas, generally less than 20%.

I would like to point out that the foregoing percentages do not necessarily reflect final financial and cost sharing policies of the Administration, although we believe they will be consistent with policies now being developed. They do represent the Department of the Army's effort to move good projects to construction in 1983. In our discussions with the project sponsors, we specifically pointed out that our financial and cost sharing objectives are not in accord with traditional requirements and that they should consider all options open to them, including that of not participating.

The commitments of the non-Federal sponsors consist of letters of intent signed by responsible officials. Copies of these letters are included in the attachment, which also contains for each project, copies of the pertinent correspondence and a fact sheet briefly describing the project. Also attached are a schedule of Federal funds required for each project in 1983 and the outyears, and a table comparing the proposed cost sharing with the traditional cost sharing. The small amount of outyear funding required over the entire construction period will not present a significant problem.

On an overall basis, our proposed financing (and cost sharing) of all nine projects combined as compared with traditional financing is as follows:

	Traditional		Proposed	
	$ Million	%	$ Million	%
Federal Financing	$ 859.1	87	$ 204.3	21
Local Financing	123.4	13	778.2	79
Total	$ 982.5	100	$ 982.5	100

In the case of the Strube Lake and Bonneville Fishway hydropower projects, it is noted that we do not have firm letters of intent, but we have received written expressions of interest from two public power agencies in the area, and we consider the prospects of success to be very good for both projects. However, the probable necessity to advertise in the Federal Register and to resolve any legal restrictions related to power marketing made it impossible to complete arrangements prior to submission of the budget amendment.

I should point out that our proposals are consistent for all project purposes nationwide; we have not made different deals with different people. In addition, all the projects are responsive to high priority needs; all are authorized; all have favorable benefit-cost ratios, and all can be placed under construction in 1983.

Freeport Harbor

The Freeport Harbor project is a special case. The authorized project for channel deepening, turning basins, and relocation of the existing North Jetty costs some $99 million (1981 prices, inflated through construction). The North Jetty is badly deteriorated, and the entrance channel which the jetty bounds, is a serious safety problem due to its narrow width of some 500 feet. In anticipation of construction of the project, which has been pending for some ten years, the Corps of Engineers has properly deferred maintenance of the jetty for a number of years since it would be relocated some 900 feet north as part of the project. The jetty is subject to failure and blockage of the channel in the event of a hurricane, and repairs cannot be safely deferred much longer. In this regard, it should be noted that the Department of Energy has expressed concern with the safety aspects of Freeport Harbor on behalf of its Strategic Petroleum Reserve at Bryan Mound. The Corps estimates it would cost some $19 million to repair the existing jetty.

In response to our proposal for financing the Freeport project, the local sponsors advised that they are unable to raise the funds until user fee legislation is passed. However, they subsequently offered in writing (copy attached) to pay 50% of the cost of relocating the North Jetty as a Phase I of the ultimate project; no channel deepening would be involved. We responded that we could not accept their offer, but on checking into the safety and maintenance problem, we conclude that a safety problem exists, and replacement of the jetty is justified. The relocation of the jetty, at a cost of $26 million, with $13 million paid upfront by the local sponsors, would cost the Federal Government considerably less than the cost of repairs to the existing jetty, and would constitute a fully usable increment of the overall project. In

this regard, the Conference Committee Report on the Fiscal Year 1981 Appropriation Bill approved an acceptance of up to $10 million from local interests to initiate construction of the Freeport Harbor project. Based on this proposal, which is acceptable to local interests, those funds, plus an additional amount of some $3 million, will constitute the non-Federal share of the North Jetty relocation, and would not be reimbursable.

Legal Aspects

The Chief Counsel of the Corps of Engineers has determined that there is nothing in law which would preclude the cost sharing proposals detailed herein. The specific requirements of local cooperation specified for projects in their authorizing documents are viewed as minimum thresholds for non-Federal participation. Since the cost sharing and financing proposals exceed the minimum thresholds, it would appear that the project authorizations do not pose any legal problem. Furthermore, there are two basic authorities which provide for acceptance of the voluntary contribution of funds from non-Federal interests. The two statutes found in 33 USC 560 and 33 USC 701(h) authorize the Secretary of the Army, on recommendation of the Chief of Engineers, to accept and expend contributions of funds received from non-Federal interests for prosecution of authorized improvement works. I want to point out that, in all cases, we will not spend any money for construction or for land acquisition until suitable contracts with the project sponsors are executed.

Funds for Further Engineering and Design

In addition to the nine new construction starts, we are proposing that $1.6 million be provided for further engineering and design on six projects that we view favorably, but that require further negotiations in an effort to reach an acceptable financing and cost sharing arrangement. The funds would be used to keep the projects active and ready to go in anticipation of future financing agreements, legislation, and future cost sharing policy, which is especially important in the case of the ports. We have therefore included these funds under the Construction, General account also. A list of the projects and amounts for each of these six projects in Fiscal Year 1983 is attached. These projects are primarily deep draft navigation projects on which we were not able to obtain financial commitments at this time in accord with our financing proposals.

Offsetting Reductions

We have reviewed the original program project-by-project and have determined that it is reasonable to expect that a savings and

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slippage reduction of nearly $93 million can be taken without detriment to project schedules. The basis for the increase in savings and slippage from $62 million to nearly $93 million is shown on the attached list of projects. The continued good bidding climate in Fiscal Year 1982, reflecting stabilizing prices, has reduced funding requirements for a number of projects.

Summary

The $30.6 million adjustment may be summarized as shown below:

Item	Original FY 1983 Budget	Proposed FY 1983 Budget	Change
	($ in thousands)		
Nine New Construction Starts	0	29,000	+29,000
Six Engineering and Design Projects	0	1,600	+ 1,600
Additional Savings and Slippage on Budgeted Projects	-62,146	-92,746	-30,600
		Net Change	-0-

The budget amendment to initiate construction of nine new starts reflects the Administration's desire to construct good water projects that meet its cost sharing and financial policies. I believe that the program for 1983 offers the opportunity to break the stalemate that has existed for some time in the overall program for water projects. I believe this proposal merits the support of the Committee and Congress. To that end, I would like to work cooperatively with you in any way you may consider appropriate. Both the staff of the Corps of Engineers and I are ready to address any questions or concerns you may have.

Finally, I will be happy to appear before your Subcommittee to answer any questions if you consider it desirable.

Sincerely,

Bill Gianelli

William R. Gianelli
Assistant Secretary of the Army
(Civil Works)

Attachments

PRELIMINARY ASSESSMENT OF
SAVINGS AND SLIPPAGE REDUCTIONS
WHICH CAN BE TAKEN ON FY 1983 PROGRAMMED AMOUNTS
WITHOUT DETRIMENT TO THE PROGRAM

PROJECT	PROPOSED SAVINGS AND SLIPPAGE $000	BASIS FOR REDUCTION WITHOUT DETRIMENT TO PROJECT SCHEDULE
McClellan-Kerr Arkansas River Nav. Sys., Locks & Dams, AR & OK	400	Reanalysis of earnings on relocation contracts.
Cucamonga Creek, CA	6,000	Favorable bid.
Walnut Creek, CA	2,600	Favorable bid.
Central and Southern Florida, FL	2,000	Favorable bid.
Four River Basins, FL	1,000	Delay in receipt of local cooperation.
Tampa Harbor Main Channel, FL	1,000	Reanalysis of earnings on dredging contracts.
Hartwell Lake Upper & Lower Diversion Dams, GA & SC (Rehab)	2,300	Favorable bid.
Richard B. Russell Dam & Lake, GA & SC	5,000	Favorable bid & reanalysis of contract earnings.
Barbers Point Harbor, Oahu, HI	5,000	Delay in contract award.
Dworshak Dam & Reservoir, ID	200	Favorable bid.
Lock & Dam No. 26, Mississippi River, IL & MO	6,340	Transfer in FY 1982 reduces FY 1983 requirements.
Milan, IL	600	Delay in receipt of local cooperation.
Smithland Locks & Dam, IL & KY	1,940	Transfer in FY 1982 reduces FY 1983 requirements.
Evansville, IN	1,000	Favorable bid.
El Dorado Lake, KS	1,000	Favorable bid & design delay for recreation.
Big South Fork National River & Recreation Area, KY & TN	1,400	Reanalysis of real estate acquisition.
Southwestern Jefferson County, KY	3,000	Delay in receipt of local cooperation.
Grand Isle & Vicinity, LA	2,000	Delay in receipt of local cooperation.
Larose to Golden Meadow, LA	3,630	Delay in receipt of local cooperation.
Cape Cod Canal Highway Bridges, MA (Rehab)	600	Transfer in FY 1982 reduces FY 1983 requirements.
Fall River Harbor, MA & RI	300	Reanalysis of earnings for dredging contract.
Mankato & North Mankato, MN	600	Delay in receipt of local cooperation.
Winona, MN	700	Transfer in FY 1982 reduces FY 1983 requirements.
Blue River Channel, Kansas City, MO	6,700	Delay in receipt of local cooperation.
Little Blue River Channel, MO	1,900	Favorable bid.
Little Blue River Lakes, MO	1,000	Reanalysis of contract earnings for relocations.
Long Branch Lake, MO	200	Delay in receipt of local cooperation.
Libby Additional Units, MT	2,200	Transfer in FY 1982 reduces FY 1983 requirements.
Elizabeth, NJ	1,100	Favorable bid.
Falls Lake, NC	1,100	Design delay.
Mill Creek, OH	3,000	Favorable bid.
Muskingum River Lakes, OH (Rehab)	2,100	Reanalysis of required rehabilitation work.
Arcadia Lake, OK	1,000	Reanalysis of earnings on embankment contract & lands & damages.
Sardis Lake, OK	200	Favorable bid.

PRELIMINARY ASSESSMENT OF
SAVINGS AND SLIPPAGE REDUCTIONS
WHICH CAN BE TAKEN ON FY 1983 PROGRAMMED AMOUNTS
WITHOUT DETRIMENT TO THE PROGRAM

PROJECT	PROPOSED SAVINGS AND SLIPPAGE $000	BASIS FOR REDUCTION WITHOUT DETRIMENT TO PROJECT SCHEDULE
Bonneville Second Powerhouse, OR & WA	2,800	Reanalysis of estimate for downstream by-pass facilities.
Willow Creek Lake, OR	2,800	Reanalysis of contingencies for dam construction.
Kinzua Dam & Allegheny Reservoir, PA & NY	4,150	Design delay.
Wyoming Valley, PA	250	Reanalysis of contract earnings for remedial work.
Portugues & Bucana Rivers, PR	867	Design delay.
Cooper River, Charleston Harbor, SC	1,600	Reanalysis of earnings on power plant supply contracts.
Aquilla Lake, TX	2,300	Reanalysis of earnings on embankment contract.
Arkansas-Red River Basins Chloride Control, TX (Area VIII)	500	Reanalysis of estimate for low flow dam.
Corpus Christi Ship Channel, TX	300	Reanalysis of earnings on dredging contracts.
El Paso, TX	400	Delay in contract award.
Lakeview Lake, TX	1,700	Reanalysis of estimate for county road relocations.
Ray Roberts Lake, TX	3,000	Favorable bid.
Three Rivers, TX	769	Transfer in FY 1982 reduces FY 1983 requirements.
Vince & Little Vince Bayous, TX	200	Reanalysis of earnings on channelization contract.
Lower Snake River F&WL Compensation, WA, OR & ID	2,000	Favorable bid.
TOTAL	92,746	

Senator ABDNOR. Senator, why don't we go vote and get right back. We will take a quick recess. The vote is on.

[Brief recess.]

Senator ABDNOR. We will come back to order.

Mr. Secretary, after your presentation a number of questions come to the minds of both Senator Moynihan and myself. Just let me ask you something. The first thing I am wondering about, since these projects were all authorized and they provide different levels of cost sharing, are you confident that what you are doing on these projects is legal?

Mr. GIANELLI. Yes, sir. We have had legal opinions from the Corps counsel and I think we are comfortable that what these represent is an additional local contribution that can be done within the framework of the present authorizations.

Senator ABDNOR. The next question. If local sources are going to fund the full cost of hydropower development, why should the Federal Government be involved in the project at all?

Mr. GIANELLI. It is a good question, and I would expect many of them will go ahead with the projects themselves. Let me point out many of the hydro project could be multipurpose, for example, hydropower and flood control, and there still would be a considerable Federal interest there. We think also that some of them may desire to have the Corps of Engineers still involved even though perhaps it is a single-purpose power project, using the corps' expertise.

Senator ABDNOR. Those that are strictly hydropower and I keep thinking of my own situation where you already have flood control dams, if it is strictly hydropower, then that would be strictly up to the locals, and as far as you are concerned you wouldn't be trying to tell anybody how much power can be sold, would you?

Mr. GIANELLI. I think that is correct, Mr. Chairman. As a matter of fact, in many of the corps current installations there is an opportunity to add hydroelectric power to it, and hydroelectric power would be added by the non-Federal sector. So I would expect and I think the import of your question is, yes, a number of hydro projects which perhaps otherwise would have proceeded to be built by the Federal Government in the past would proceed by the non-Federal interest under the new cost-sharing formulas. I think you are exactly right.

Senator ABDNOR. One thing you are talking about bothers me. I am wondering how the States which can't afford to finance new development, from here on out, unless you are fortunate to be one of those States like Alaska that gives a thousand dollars a person away, they have so much money, or the State of Wyoming, one of the States that have a lot of coal, regardless of need or the purpose there might even be some very, very worthy projects to be developed. I know some States may have trouble finding the up front money to make studies. I think you said stage two of the studies is 50/50. Is that right?

Mr. GIANELLI. Yes, that is in the planning areas.

Senator ABDNOR. Have you given that much consideration?

Mr. GIANELLI. Yes, sir. And I don't think it is correct, Mr. Chairman, to assume that the non-Federal burden will fall specifically on the States. I would view that non-Federal interests could be

many other interests other than the States themselves. So I don't view, first of all, that the effort we are making to get additional cost sharing by non-Federal interests necessarily means the State is the one that is going to have to pick up that slack. And I think there are, depending upon the project beneficiaries, I think there may be many others that may step forward and pick up that particular responsibility. So I don't view it and have not viewed it as an approach which is necessarily going to discriminate against, as perhaps you have described, those States that perhaps don't have great financial wealth within their State government, for example, to advance funds.

Senator ABDNOR. Could you visualize a situation where you are out looking at a couple of projects like flood control, and a rich State comes along and says we will put up 45 percent and a poorer State finally finds 35 percent and OMB might be sitting there saying this is the one we are going to fund. Couldn't that happen?

Mr. GIANELLI. We are asking for a specific percentage with respect to each one of the projects for flood control.

Senator ABDNOR. But if they came along and offered more, you wouldn't take that?

Mr. GIANELLI. I am not sure we would reject it, Mr. Chairman.

Senator ABDNOR. I don't think this is up for bids. Whoever is the richest State is going to get it. That is the way we operate in the free enterprise system, but that doesn't solve water problems around the country.

Mr. GIANELLI. Well, I don't think we envision it being the detriment to some of the areas as some people have envisioned it, Mr. Chairman. I think a good project will go ahead. But I think you have to recognize this, that the whole benefit-cost computation is not going to favor those projects where the benefits don't exceed the costs. And so, for example, we have areas all over the United States that get flooded periodically, and it isn't they don't need flood protection. But the problem is it may cost more to give flood protection than the property is worth. So the cost-benefit computation is aimed at getting the better projects where you have Federal money invested to the front. So I don't envision what we are trying to do is any different than an extension of the benefit-cost computation, which in itself is going to be prejudiced against those projects which are not as good as others.

Senator ABDNOR. Well, if you had two States involved in flood control, and I think of my State where we have taken care of a lot of flood control, if something like that on a smaller scale was to come up, would we be expected to go to the other States for their share of putting that flood control in?

Mr. GIANELLI. I would say the theory behind it is those people that would be benefited should be the people that would have to pay. That is going to be difficult in some areas, without doubt. But it certainly could involve more than one State.

Senator ABDNOR. If some State is going to give up a lot of land for flood control and another State gets the benefits, I hope when the study and cost is done they have to figure out how much one State gets and what it gives up in the way of land. It just makes me wonder about the possibilities.

Let me ask you this. Will the temporary cost-sharing proposals be compatible with the long-term administration proposals?

Mr. GIANELLI. Yes, sir. As I indicated in my statement, I have been a part of developing the policy for the administration. I have been part of the Cabinet Council deliberations on the subject and I feel what we are doing is completely consistent with what I think the administration will be putting out very soon with respect to policies for all Federal agencies.

Senator ABDNOR. You don't think there are going to be any changes down the road?

Mr. GIANELLI. I don't think there is going to be a change that will have any impact on what we are trying to do in connection with our 1983 program.

Senator ABDNOR. Senator Moynihan, I have taken 10 minutes. You go ahead. I will have more when you get through.

Senator MOYNIHAN. Thank you, Mr. Chairman.

I don't know why you find the principle involved so difficult to follow. It is some get money and some get none, very familiar these days in Washington.

Mr. Secretary, first of all, may I express on behalf of the whole committee we are delighted to hear General Heiberg is moving up, and no one could be more deserving in that most deserving of organizations.

I have, first of all, a general question. What you are bringing us here, sir, is some work you want to get done that is in line with principles that you are going to set forth in a general way in some near future date; is that the point?

Mr. GIANELLI. Yes, sir.

Senator MOYNIHAN. This anticipates and, to some degree, reflects what you plan to announce.

Mr. GIANELLI. This is a program for 1983. And as I responded to the chairman, I feel comfortable that the administration will adopt for a long-term basis a general policy that will apply to all Federal water agencies now and in the future that will be consistent.

Senator MOYNIHAN. Now do you accept, Mr. Secretary, that this cannot be a unilateral decision of the executive branch? The Congress and this committee has to participate in anything?

Mr. GIANELLI. Yes, Senator Moynihan. I think we certainly understand that the Congress has to be a part of any program that is developed. As I indicated in my statement, I think we feel that there are several things we can do administratively and hopefully we don't overstep our bounds. If we do, I am sure the Congress will tell us that. We do have to come to you in a number of areas. But we think we can do some of these things from an administrative standpoint.

Senator MOYNIHAN. Sir, I am making the point, Mr. Chairman, I think the Secretary answered as we would hope, that if you are going to propound a general policy with respect to water programs in the United States, that has to be done in cooperation with this committee and our corresponding committee in the House.

Mr. GIANELLI. Absolutely; yes, sir.

Senator MOYNIHAN. That is just too fundamental.

Mr. GIANELLI. Yes, sir.

Senator MOYNIHAN. Now, sir, let me be difficult with you, but I hope you understand not in any way personal. There is nothing personal about this.

You say this is a new principle, right?

Mr. GIANELLI. Yes, sir.

Senator MOYNIHAN. What is new about a Federal water project in which 25 percent of the Federal money goes to California and zero to New York? That is historically the established ratio.

Mr. GIANELLI. Well, I don't know, Senator, but——

Senator MOYNIHAN. I know.

Mr. GIANELLI. Could I answer please?

Senator MOYNIHAN. Of course, sir.

Mr. GIANELLI. I am not so sure that those facts are absolutely correct, Senator. If you look at the corps' budget, for example, nationwide, I don't think you will find 25 percent of the corps' budget goes to California.

Senator MOYNIHAN. No, it doesn't, but zero goes to New York.

Mr. GIANELLI. Well, I don't know, Senator Moynihan. I think that New York may not have got as much as some States, but I think it is a participating partner.

Senator MOYNIHAN. I am making a point here because there has to be a national basis for this program. New York State, over the last 25 years has received 1.2 percent of water resources funds, California 8.9 percent, and California is not different in Washington. There is a big disparity. It originates with the basic fact that our water programs began as a development of the Mississippi River Valley, Mississippi-Missouri, in the 1830's, responded to the reclamation program in the Western States under Theodore Roosevelt, then came back to the Ohio Valley needs. This is historic. But there is a problem with the program coming to a close, a stalemate, because of this imbalance. That is what Senator Domenici and I have been after.

I have no choice but to ask you about Ellicott Creek, which the sum involved is derisory, $25 million, as I recall, in that area. Now this was one of the 10 projects that you sent to OMB.

Mr. GIANELLI. Correct.

Senator MOYNIHAN. And it is widely reported in our press, and I quote your respected journalist with the Buffalo Evening News, Mr. Paul McClennan, who describes the difficulties. This is in the congressional district of Representative Kemp, who is a good friend of the President and a good friend of mine, and I read here from Mr. McClennan's article on the environment.

> Representative Jack Kemp, whose representational bailiwick includes the Amherst floodplain, apparently got out of line in criticizing the White House budget, so presto, out goes money for Ellicott Creek.

Is it your understanding, as it is so widely reported, that Mr. Stockman, for whom I have the greatest regard, who lived with my family as a student, just got mad at Jack Kemp and scratched out the program?

Mr. GIANELLI. Well, I can't respond to that.

Senator MOYNIHAN. I imagine you wouldn't want to respond to it.

Mr. GIANELLI. I have my own answers to why and I tried to explain, Senator, why the project was not finally included, and that is the basis as far as I am concerned.

Senator MOYNIHAN. I do have a question which goes to a much larger issue. Let me just say, and I don't ask you to resolve it, but it is very clear that Stockman set out to teach Jack Kemp a lesson, and Jack Kemp will teach Stockman a lesson, and that goes on in this city, and we understand it. But our State people are very upset. We don't ask for much. We get virtually nothing. And in your testimony, sir, you state, "The State's letter on the Ellicott Project did not make it clear that it was accepting our program and our offer." And I would ask you, Mr. Secretary, am I right in my understanding that what you were asking New York State to do was to say we agree with this particular cost-sharing ratio and pattern?

Mr. GIANELLI. Well, Senator, we started out with this whole program as a new start program which would involve a higher degree of non-Federal interests.

Senator MOYNIHAN. Right.

Mr. GIANELLI. That was the basis for what we were trying to put together with all of these projects. I think, and upon reflecting upon the correspondence we received from Mr. Flacke on behalf of the State of New York, it was apparent he didn't want any part of the program that we were trying to espouse. That was the basis for the whole program, a new start program which would involve a higher degree of non-Federal participation. As I indicated, by coincidence, the 35 percent that we were espousing turned out to be just about what would have been contributed by the State of New York under the historical formula. As I said, I think he made his position very clear, that he didn't want any part of our program until the Congress had in effect changed the ground rules. We felt very strongly what we were trying to do was embark on a new direction.

Senator MOYNIHAN. All right, sir, I don't want to quarrel with you, but I must say this, that what you call your Federal program is a proposed Federal policy with respect to water projects, and that is your business and you are absolutely right to pursue it. You come upon a stalemated program that has not been moving for a decade. You are trying to do something different. But it seems to me, and I don't want to be personally difficult, that it is out of order to ask a State department of conservation to endorse your policy proposal which must in fact be a policy proposal to this Congress. And Mr. Flacke was more than willing to pay the 35 percent, and I just don't see how his willingness to endorse one Federal principle or another has anything to do with the fact he was willing to put up the money and mysteriously and unpleasantly Ellicott Creek disappeared. Because we are trying to depoliticize this program. You have heard us say to the point where we could almost claim to have made a convert of you, although I know that is not the case, you have always felt that water projects cannot be free goods; when they are free goods, they are of necessity wasted; that there must be cost share.

But the State of New York was prepared to share this cost and a decision not to do so, I think you have to agree, sir, was made in OMB and not in the Department of Army; is that not right?

Mr. GIANELLI. No, sir, I wouldn't concede that.

Senator MOYNIHAN. Wasn't this on the list you sent to OMB?

Mr. GIANELLI. That is right, but we had some conversations with OMB and further evaluated what happened in Danville and what happened with respect to statements that were made in Mr. Flacke's correspondence. I think if I had to do it all over again, I would have rejected Mr. Flacke's letter of March 23, and I should have done so.

Senator MOYNIHAN. But on March 31 you did say to Mr. Flacke on the basis of the commitment indicated in your letter we will include the Ellicott project in the package of new construction.

Mr. GIANELLI. That is correct, that is what I said. I think I should have done it the other way.

Senator MOYNIHAN. I don't in any way dispute you in this matter, sir, I just say there is nothing new about a program where 25 percent of the money goes to California and none to New York. And I think this is something Mr. Kemp is going to have to pursue more than I. There was a time when I could tell David Stockman a thing or two, but that day is long past.

Could I ask you one last thing, on principle. Can we expect a message from the President? This is not something to be done. What this looks like is that OMB says don't spend any money and find a principle which will support not doing so. And so we see here a huge program, $1 billion program, but half a billion is in Alaska, and it is all Alaskan money, and the other is in Oregon and, in fact there is $200 million of the Federal program. Can we expect a message from you? We would welcome it. We do very much think that there needs to be an agreed upon new Federal policy with respect to water projects that will begin the investment in these programs once again, and the chairman couldn't be more of that view. Can we expect a message from you, that this is what and this is why?

Mr. GIANELLI. Yes, sir. I think, Senator, and I am hopeful, that that will be forthcoming very shortly. The Cabinet Council on Natural Resources and Environment has been debating this issue for the last several months. The Cabinet Council will be shortly making a recommendation to the President on this, and I would expect that there will be some announcement from the White House exactly along the lines of what you are suggesting should be forthcoming.

Senator MOYNIHAN. My last point, Mr. Chairman, not to press you, but it is getting on. The great initiatives of the administration are taken in its first 48 hours, and that is about the half-life. In truth, 6 months is the half-life of any administration. Can we get it before this Congress is out do you think?

Mr. GIANELLI. Well, I would hope you can get it in the next 30 days or so.

Senator MOYNIHAN. Well, that is a good answer, and I thank you very much.

Mr. GIANELLI. You are very welcome.

Senator MOYNIHAN. Thank you, Mr. Chairman.

Senator ABDNOR. Thank you.

Mr. Secretary, I would like to pursue a few additional questions here on the overall proposals. What will the requirements for cost-sharing for water developed for irrigation purposes be, and how is this going to relate to the new Reclamation Reform Act?

Mr. GIANELLI. Let me say, Mr. Chairman, that the policy which will come from the administration will address the subject of irrigation. You may recall that our new starts specifically do not include any irrigation projects. So any policies that we have developed for 1983 did not reflect anything with respect to irrigation. The Department of Interior, I am sure, will be dealing with the very question you raise. But I would expect once the policy comes down from the administration—as I indicated to Senator Moynihan I think that hopefully will be in the next 30 days or so—that it will cover the subject of irrigation. I would expect that what is happening with respect to reclamation law will be able to be folded into that new administration policy without any difficulty.

Senator MOYNIHAN. Mr. Chairman, would you allow me to interrupt to say Chairman Stafford has called another meeting on legislation before the committee.

Senator ABDNOR. You look out for me there.

Senator MOYNIHAN. I don't mean any discourtesy to our witnesses, to whom we are much indebted and hold in great respect.

Senator ABDNOR. Thank you.

There will be some sort of coordination; the overall long-term planning here is going to look at both corps and Reclamation projects, I assume, and keep them in balance so that one area isn't going to have a completely different type of treatment than another.

Mr. GIANELLI. Yes.

Senator ABDNOR. We had the Soil Conservation Service up here the other day.

Mr. GIANELLI. The Soil Conservation Service of the Department of Agriculture will be included in the administration policy.

Senator ABDNOR. They are not aware of it I guess at this time in the testimony they presented.

Mr. GIANELLI. They will be involved.

Senator ABDNOR. Are they going to have the same kind of cost sharing and standards?

Mr. GIANELLI. Well, the Soil Conservation Service I think—well, I won't say primarily, is very largely involved with irrigation and certainly they will have to coordinate, and will I am sure, with the other Federal agencies, whether it is the corps of the Bureau of Reclamation, in connection with some of its programs.

Senator ABDNOR. In the testimony we had, most of the projects are flood control and some recreation, and they were going to change it.

Mr. GIANELLI. Well, I am not intimately familiar with what the Soil Conservation Service is proposing, but I do know when the administration comes out with its policy, which as I indicated we are consistent with that or I think we will be when it has finally surfaced, the Soil Conservation Service and the Bureau of Reclamation and the Corps of Engineers will all be bound by those administration policies, Mr. Chairman.

Senator ABDNOR. That is why the policy has got to be kept somewhat together on all these different types of projects, not the corps going off on what they think it ought to be and the Bureau of Reclamation another way and the Soil Conservation Service another way.

Why should we start any new projects until we have the overall cost planning and project-expediting policy? We are going to have a new overall cost sharing, aren't we, so why should we start any new projects until we have it?

Mr. GIANELLI. Well, Mr. Chairman, the Corps of Engineers has an active program. I am sure as the chairman knows, there hasn't been very much happening with respect to corps programs in recent years. We proposed a program for 1983, which is what we are presenting to you here. I have been deeply involved with all of the Cabinet council deliberations on the subject of cost sharing and I feel reasonably comfortable that what we have done with the corps projects in 1983, as we are presenting to you here, is consistent from an overall standpoint. As a matter of fact, the President has indicated his concurrence with what we are doing in 1983 by virtue of the fact that he has submitted a supplemental budget amendment which includes these projects for new starts in 1983. It seems to me it would be a shame to hold up these projects, which are good projects, upon which we have done so much work, upon which we have gotten the Office of Management and Budget to buy in, also which the President has endorsed, to hold those up now on the supposition they may be different from something that comes out at a later date. I think it would be most unfortunate not to proceed with these good projects we have been able to orchestrate for 1983 while we are waiting for overall policies to come forward.

Senator ABDNOR. Let me ask you this, because it all goes together. Has the administration abandoned its efforts at cost sharing in the area of navigation? If not, what have you been doing to demonstrate your continued commitment to this issue?

Mr. GIANELLI. No, sir, the navigation is a particular problem for us, and I indicated to you that in our new starts for 1983 we really did not do very well with any of the navigational projects. I feel it was due to the fact that there is so much uncertainty with respect to what the cost-sharing formula will be for navigational projects. Obviously, what comes out of the Congress in terms of the specific cost sharing for navigation projects will have a great bearing on the advancement of new navigational projects. So I think in terms of navigation, it is one use that we have not made great progress on with respect to our 1983 new starts. Although we do have one project which is a reconstruction of a jetty, the Freeport project in Texas. The jetty that we are proposing to be reconstructed will be in a location that it can be used for an additional project eventually which would be constructed in that area as a navigational project. On the others that we have been talking to with respect to navigation, we have not been successful in putting together a new start for 1983, and largely it is because of the uncertainty of whatever formula may come out of the Congress in terms of the legislation that is pending.

Senator ABDNOR. Well, there still seems to be quite a cloud over what avenue we are taking. We are supposed to be hearing some-

thing from the administration on the deep water seaports and time is running out. We have got a bill out, as you know.

Mr. GIANELLI. Yes, sir.

Senator ABDNOR. I am a long way from giving serious thought for some of the inland problems, but maybe its because of a lack of information.

Mr. GIANELLI. Senator, could I respond. I think with respect to navigation legislation on deepwater ports, if you have not been contacted I think you will be very shortly by the administration. We recognize that your bill is the only one that has proceeded out of Senate committee. I think the administration is very anxious to work with you and two or three other Members of Congress who have indicated a desire to try and work something out in the navigation area particularly with respect to deepwater ports.

Senator ABDNOR. As time goes on, I get more convinced it is the best proposal going. We are certainly willing to see what we can do to make it a realistic piece of legislation for passage of the bill.

Mr. GIANELLI. I think there are aspects of your legislation that the administration could certainly support, Mr. Chairman.

Senator ABDNOR. We have to convince a few others around here, I guess.

Let me ask you about the 1983 budget. Do you suggest that due to the new projects you are going to ask for additional dollars, are you planning to take reprograming money that we have on projects currently being constructed and take it from there and put it into the new ones? I am curious.

Mr. GIANELLI. I would like to have Mr. Steinberg respond to that. But the answer to your question is we have been able to reprogram so we are not asking for additional money. But, I think, Mr. Chairman, it might help if Mr. Steinberg could respond more specifically to the question you raise.

Mr. STEINBERG. Mr. Chairman, we have reviewed the entire fiscal year 1983 construction program, which originally had a savings and slippage of some $62 million. In reviewing the favorable bids we have received—and we have received quite a few in recent months—and in reviewing certain transfers made in 1982 which reduced 1983 requirements, and evaluating certain slippages, we have found that we can accommodate the additional $30 million proposed in the budget amendment by increasing the savings and slippage from $62 million to $92 million without impacting on these continuing projects.

Senator ABDNOR. It is a fact the projects we have underway today have to be completed sometime. I don't know what slippage entails. What is slippage?

Mr. STEINBERG. In some cases, delay in receipt of local cooperation, in other cases a delay in award of an actual contract. But I might add that on the savings side of savings and slippage, we have received considerable good bids. With the lack of work in the private sector, high interest rates and the fact that the corps pays its bills on time once a contract is awarded, the contractors are giving us excellent prices for the work we are advertising, often below the Government estimates. These are savings from which we can finance the new starts.

Senator ABDNOR. We heard a lot about slippage last year for 1982. Did all that really occur?

Mr. STEINBERG. The amount included in the 1983 appropriation bill was spread among projects with no impact on schedules, Mr. Chairman.

Senator ABDNOR. How much was that slippage?

Mr. STEINBERG. It was a little bit over $200 million, sir.

Senator ABDNOR. What will this do to the projects underway now? Will it set them back quite a while or do you think they can stay on schedule?

Mr. STEINBERG. Where a slippage has occurred outside of the new starts, we are not slipping it any further. As an example, we expected to receive land, easements and rights-of-way on a local protection project and the local interests have not given it to the corps in a timely manner. That delay has occurred already. We cannot do anything about that. We are saying that money is available to finance the new starts in part, and we will have to pick up on the project from which funds are being reprogramed in fiscal 1984 and 1985. The point I was trying to make is that we are not delaying any project in this proposal beyond where it is already delayed.

Senator ABDNOR. You mean in any project, the ones we are on now or the new ones?

Mr. STEINBERG. The ones we are on now, sir.

Senator ABDNOR. I have one other question before I have to go vote. I want to ask another question about hydropower because it bothers me.

If hydropower is 100-percent financed by non-Federal sources, how will the power revenues be allocated? Now we talked about that earlier. Who is going to get the water supply payments, and if there is excess revenues, and hopefully some private groups are willing to put money into an investment like that and they would expect a return on the investment. Are they going to be for a profit?

Mr. GIANELLI. I think what you are talking about there, Mr. Chairman, for example, and it is coming up right now, where a private sector proposal comes along to add hydroelectric power to the existing corps project, and we feel there is some responsibility on behalf of the non-Federal interest to help defray part of the cost of that project which perhaps made it possible to add the hydro in the first place. I think those things are going to have to be worked out, probably on an individual basis, depending upon the nature of the project. I think I understand what you are saying, and that is that the private sector, if they get involved with some of these hyrdro projects, wants to make a profit, and I think that is understandable. I think what we have to do is protect whatever Federal interest is involved while they are going ahead with their hydro project.

Senator ABDNOR. Who gets the revenue on these? We have three projects here right now.

Mr. GIANELLI. It all depends on how the matter would be worked out. If, for example, hydro would be added at an existing corps project, in addition to the cost of putting in the hydroelectric facilities, I think there would have to be some arrangement made with the non-Federal agency to pay the Federal Government certain costs of putting in the dam in the first place, which perhaps was

built for some purpose other than hydro. I think those things are going to have to be worked out on an individual case-by-case basis in a theoretical formula. Our concern is that we protect whatever Federal investment, Federal moneys, have been put into some of these projects which allow the hydro to be added, say, at a later date in the case of those facilities.

Senator ABDNOR. Take the one in Alaska you have. That is all hydropower. It will be a whole new dam.

Mr. GIANELLI. That is correct.

Senator ABDNOR. Who gets the revenue?

Mr. GIANELLI. The local people would presumably get all power revenue that would be developed by the power facility constructed there. It is single-purpose project, and the United States would get back any investment it has in that particular project.

Senator ABDNOR. It would be the early planning.

Mr. GIANELLI. The advance engineering and design which is going on right now.

Senator ABDNOR. Anything over and above that, I mean in the years down the road, would go to Alaska or whoever put up the money.

Mr. GIANELLI. I would think that would be the case. If they are paying for the entire project and it is a single-purpose power project, it would seem they ought to be entitled to the revenues from that project, so long as whatever moneys the United States put in are returned to the United States at some point in time.

Senator ABDNOR. Very good. I guess I better get down to vote. They said they are holding us to that 15 minutes. We do have some additional questions. I am sorry that more of the members were not here, but with the session going and other committee meetings, I guess it was impossible for them to be here. So we will keep the record open for additional questions.

Mr. GIANELLI. We will try and respond to any questions which the committee may have, Mr. Chairman.

Senator ABDNOR. With that, we thank you all for coming and look forward to a continued discussion on this matter. We stand adjourned.

[Whereupon, at 11:40 a.m., the subcommittee recessed, to reconvene subject to call of the Chair.]

[Secretary Gianelli's prepared statement and responses to written questions follows:]

DEPARTMENT OF THE ARMY

OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY

(CIVIL WORKS)

STATEMENT OF WILLIAM R. GIANELLI

ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

BEFORE THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ON FY 1983 NEW CONSTRUCTION STARTS

JUN 1 8 1982

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Pursuant to your letter of invitation dated June 3rd, Mr. Chairman, I welcome this opportunity to discuss the President's budget recommendations for new construction starts for the Army Corps of Engineers in FY 1983. My prepared statement is brief, Mr. Chairman. The details of the President's proposed Budget Amendment for new starts are included in my letter to you of May 25th, and in the attachments to that letter.

Last February, I stated that pressure on the Federal budget precludes the Federal Government from being able to finance all -- or even a major portion -- of the water projects which this Nation needs. I stated that the Civil Works Program of the Army Corps of Engineers was at a crossroads, that no major legislation authorizing new projects has passed Congress since the middle of the past decade, and that new financing and cost-sharing proposals were necessary to enable us to move out in FY 1983 with a modest construction new starts program.

We started with a list of 12 projects which we found to be sound on the basis of engineering, economics, and the environment. Subsequently, three additional projects were identified. We consulted with non-Federal agencies and sought their participation in financing and cost-sharing. I am pleased to report

now that we are recommending nine of these projects for constructions starts in FY 1983. Letters from the local sponsors expressing their intention to accept our financing proposals are found in the attachments I provided to you.

The proposed new starts and their financing are described as follows:

Project	Purpose	Capital Cost	$ Million Financing Fed.	Local	Fed.[5] Funds 1983
Bradley Lake, AK	Hydro	$478.0	$ 0	$478.0	$ 6.0[2]
Strube Lake, OR	Hydro	106.0	0	106.0	0.4[2]
Bonneville Units, OR	Hydro	21.3	0	21.3	0.5[2]
Davenport, IA	FC[1]	50.6	30.7	19.9	1.3
Kahoma, HI	FC	20.0	13.0	7.0	3.0
Merced, CA	FC	116.0	75.3	40.7	4.0
Virginia Beach, VA	FC	5.4	3.5	1.9	2.2
Randleman Lake, NC	MP[3]	159.0	68.7	90.3	8.2
Freeport Harbor, TX	[4]	26.2	13.1	13.1	3.4
Total		$982.5	$204.3	$778.2	$29.0

1/ FC - Flood Control; 2/ Temporary Advance; 3/ MP - Multipurpose; 4/ North Jetty replacement in lieu of rehabilitation of existing jetty; and 5/ Fed. - Federal.

The President's Budget submitted to Congress in February indicated that additional funds would be requested for sound new construction starts that met the Administration's criteria for non-Federal financing and cost-sharing. However, it is now possible to initiate the projects within the original $1,209.4 million proposed for Civil Works Construction, General in FY 1983.

Specifically, we have reviewed the original program project-by-project and have determined that it is reasonable to expect that a savings and slippage reduction of nearly $93 million can be taken without detriment to project schedules. The basis for an increase in the estimate of anticipated savings and slippage of $31 million, from $62 million to nearly $93 million, is shown on the list of projects attached to my letter of May 25th. In general, the continued good bidding climate in Fiscal Year 1982, reflecting stabilizing prices, has reduced funding requirements for a number of projects.

We have sought non-Federal, up-front financing in accordance with the following percentages, the primary basis of which is vendibility of outputs. The traditional percentages are shown in parenthesis.

For Cost Allocated To	% Non-Federal Financing
Hydropower	100% (0%)
Municipal & Industrial Water	100% (0%)
Flood Control	35% (18% av.)
Separable Recreation	50% (50%)**
Commercial Navigation	75%* (-)***

*25% Federal financing is reimbursable.
**Either up-front or repayment.
***Disposal areas, generally less than 20%.

In our discussions with the project sponsors, we specifically pointed out that our financial and cost-sharing objectives are different from traditional requirements and that they

should consider all options open to them, including that of not participating.

On an overall basis, our proposed financing (and cost-sharing) of all nine projects combined as compared with traditional financing is as follows:

	Traditional		Proposed	
	$ Million	%	$ Million	%
Federal Financing	$859.1	87	$204.3	21
Local Financing	123.4	13	778.2	79
Total	$982.5	100	$982.5	100

These percentages are heavily weighted by the three hydroelectric projects, for which 100% non-Federal financing is proposed. The proposed financing on the other six projects is 54% Federal and 46% local.

I should point out that our proposals are consistent for all project purposes nationwide; we have not made different deals with different people. In addition, all the projects are responsive to high priority needs; all are authorized; all have favorable benefit-cost ratios, and all can be placed under construction in 1983.

I would like now to address the specific issues set forth in Chairman Abdnor's letter of June 3rd.

1. "The proposed funding arrangements on each project and the timetable for initiating construction on each project."

The funding arrangements for each project are set forth in the attached tabulation. Our timetable is to begin construction on each project in Fiscal 1983, as soon as the budget is enacted and a contract is negotiated with the local sponsors. In this regard, we are already preparing draft contracts for discussion with the sponsors. Of course, we cannot implement the provisions of any such contracts until the Congress has acted on the budget. In any case, October 1, 1982 is the earliest date when we could begin construction of any project.

2. "The degree of commitment that you have received from each local sponsor."

Copies of the pertinent correspondence with each local sponsor are attached to my letter of May 25th.

In general, the commitments are official letters of intent signed by responsible local officials. These letters were developed on the basis of numerous contacts and meetings, and they indicate the sponsor's intention to specifically provide the non-Federal financing that we sought. The letters do not constitute contracts, but they are much more than a mere expression of interest.

In the case of the Strube Lake and Bonneville Fishway hydropower projects, we do not have firm letters of intent, but we have received written expressions of interest from two public power agencies in the area, and we consider the prospects of success to be very good for both projects. However, the

probable necessity to advertise in the Federal Register and to resolve any legal restrictions related to power marketing made it impossible to complete arrangements prior to submission of the Budget Amendment.

3. "The degree of flexibility remaining for funding of each of these projects."

There is no flexibility at all, so far as the overall division of financing is concerned. For example, a local sponsor who agrees to pay 65% of the total cost of a multi-purpose reservoir project will be expected to pay that share by the time the project construction is complete. Normally, it would advance non-Federal financing each year in the amount of 65% of the actual expenditures in that year. However we do have flexibility to vary the amounts in any year to fit local financing capabilities, so long as the overall percentage is met on the whole project. In some instances, it may be appropriate, for example, to provide a temporary advance of Federal funds pending a local sale of revenue bonds. We intend to be reasonable in such cases. For local flood protection projects, the sponsor will provide lands, easements and rights-of-way and supplement its traditional financing requirement with a cash contribution where necessary to bring the non-Federal financing to 35% of the projects' cost.

4. "Any information that you can provide regarding Administration proposals for statutory changes in existing cost-sharing arrangements."

The Administration has not yet completed its deliberations on the full spectrum of cost-sharing policies governing Federal water projects. However, the Cabinet Council on Natural Resources and Environment will be forwarding shortly its proposals to the President. The initiatives we have taken for Civil Works FY 1983 new construction starts are consistent with overall Administration policies. While the Administration's legislative program cannot be definitively stated at this time, a number of observations can be made.

First, existing project authorizations and generic legislation give the President and Congress a great deal of flexibility in applying new cost-sharing and financing policies to authorized projects. This flexibility is reflected in the fact that the nine new construction starts we have proposed for initiation in FY 1983 require no modifications in their authorizations to permit them to proceed under the new financing and cost-sharing arrangements we are proposing. Second, the Administration will reflect its policies in the reports on projects it recommends be authorized in the future. Thus, new policies can be applied in the legislation authorizing these projects without any need for new generic legislation. Third, whenever legislation is necessary to modify existing policies, the Administration will present its proposals to Congress as soon as possible so as not to constrain the implementation of important and productive projects any longer than necessary.

We are hopeful that most innovations can be made without new generic legislation because we are painfully aware of the complexity of the issues relating to the areas of user charges, cost recovery, financing and cost-sharing which make them difficult for Congress to address in a comprehensive way within a relatively short period of time.

5. "The position of the Administration on cost-sharing in project studies."

I have long been concerned over several aspects of the Corps planning process. These concerns seem to be shared by Members of Congress and others interested in water resource development. Specifically, I am concerned with the length of time it takes to complete a typical feasibility study, the high cost of individual studies, the high proportion of unfavorable studies upon which substantial resources have been expended, and the small share of studies resulting in projects that are actually authorized and funded. I therefore feel it is imperative that we take steps to allow the Corps to concentrate its planning resources (manpower and budgetary) on the more important studies which have the best chance of implementation.

I am proposing that, beginning in FY 1983, new studies pertaining to specific problem areas (other than inland navigation) be undertaken in two phases. The first phase will be a reconnaissance phase financed 100 percent with Federal funds

and normally completed within a year at about 20-25% of the cost of the full study. The second phase will be a detailed feasibility study to be cost-shared with local project sponsors on a 50-50 basis with one-half of the non-Federal share available in the form of "in kind" services if the parties agree.

I would view the reconnaissance study to be fully funded when it receives its initial appropriation. It would establish:

a. The definition of the problem and its potential solutions;

b. A determination of whether or not the study should proceed further, based on a preliminary appraisal of costs, benefits, and environmental impacts of alternative solutions;

c. An estimate of the costs of the second phase feasibility study;

d. Identification of the local sponsor and indication of its willingness to participate in the feasibility study on a cost-sharing basis.

I believe that this procedure will not only speed up the planning process, but will increase the proportion of studies which leads to successful solutions of problems.

6. "The reasons the Administration did not propose a new start on projects, such as the Ellicott Creek flood control project in New York, that you had recommended."

The Ellicott Project was a difficult case to handle. In the first place, the State had categorically rejected our offer on the Dansville Project, saying that any change from traditional cost-sharing should be established by the Congress. The Ellicott Project - along with three others - was added to our original list of 12 projects late in the game when minor impediments to its

readiness for construction were removed. By coincidence, the cost estimate for the rights-of-way and relocations exceeded the 35% cost-sharing criterion. The State's letter on the Ellicott Project did not make it clear that it was accepting our program and our offer. Nevertheless, we did include the project in the group of 10 projects to be considered.

In brief, when all 10 projects were considered as a package, there was considerable doubt that the State was really willing to participate in the program, in view of its previous rejection in the case of the Dansville Project and of the qualifications in the State's letter of March 23rd. The offer agreed to by all other sponsors of flood control projects was to finance 35% of the costs allocated to flood control, or rights-of-way and relocations, whichever is greater. If the latter costs actually turned out to be less than 35%, then the State would have received a better deal than anyone else.

7. "A discussion of the potential impacts of the use of this new marketplace test for projects as it affects the ability of less affluent states and regions to develop projects."

There have been some objections raised to the innovative financing approach we have proposed on the basis that these policies favor the more affluent states and regions. We do not believe this to be the case. Our policies favor sound and

productive projects nationwide. In the case of hydropower, water supply and both deep-draft and inland navigation, we have proposed that the beneficiaries bear 100 percent of the costs assigned to these purposes. This is based on the fact that these functions are fully vendible and are fully comparable with private sector goods and services. Indeed, most electric power and a good share of water supply are supplied by private firms. The Federal Government provides only a minor share of both. In the case of costs assigned to commercial navigation, the complementary services necessary to realize the projects' benefits are subject to full cost recovery and market-based pricing.

While there is common agreement with this principle, some have argued that it does not follow that these project services should be financed by the non-Federal sector. However, the marketable nature of project services provides the basis for non-Federal financing through the sale of revenue bonds. When revenue bond financing is used, it is the certainty and magnitude of the potential project revenues which permit the project costs to be funded, not the wealth or lack thereof of the non-Federal party. Thus, it should not be argued that in the case of the vendible outputs we have favored the affluent regions.

In the case of other project purposes such as flood control and recreation, we have asked for considerably less than

100 percent non-Federal financing in recognition that the revenue bond approach is not appropriate. The amounts we are requesting, however, in our view, should be able to be contributed by the non-Federal sponsors if the project benefits are real.

The Budget Amendment to initiate construction of nine new starts reflects the Administration's desire to construct good water projects that meet its cost-sharing and financial policies. I believe that the program for 1983 offers the opportunity to break the stalemate that has existed for some time in the overall program for water projects. I believe this proposal merits the support of the Committee and Congress. To that end, I would like to work cooperatively with you in any way you may consider appropriate. Mr. Chairman, this concludes my statement; we will be pleased to respond to any questions or concerns you may have.

FY 1983 PROPOSED NEW CONSTRUCTION STARTS
PROPOSED SCHEDULE OF FEDERAL FUNDING
($000)

PROJECT TYPE/NAME	FISCAL YEARS 1983	1984	1985	1986	1987	BALANCE	TOTAL
Navigation Safety							
Freeport Harbor, TX (3700' North Jetty)	3,360	3,350	6,925	2,065	0	397 1/	13,097
Hydropower							
Bonneville Fishway, OR & WA	500	0	0	0	-500	0	0
Bradley Lake, AK 2/	6,000	0	0	0	0	-6,000	0
Strube Lake, OR 3/	400	0	0	0	0	-400	
Flood Control							
Davenport	1,340	1,160	4,310	4,280	9,900	9,750 4/	30,740
Kahoma Stream, HI	3,000	6,000	3,300	0	0	700 5/	13,000
Merced County Streams, CA	4,000	10,010	24,150	11,330	13,400	12,415 6/	75,305
Virginia Beach Streams, Canal No. 2, VA	2,200	884	0	0	0	420 7/	3,504
Multi-Purpose							
Randleman Lake, NC	8,200	8,100	11,500	9,400	9,500	22,000 8/	68,700
TOTAL	29,000	22,214	47,185	27,525	32,300	39,282	204,346

FOOTNOTES

1/ Sunk costs, which are to be recovered.

2/ Sunk costs are $6,341,000, all of which is to be recovered.

3/ Sunk costs are $1,775,000, all of which is to be recovered.

4/ Includes $930,000, which is Federal share of sunk costs.

5/ Sunk costs, of which $455,000 is Federal share.

6/ Includes sunk costs of $5,750,000, of which $3,738,000 is Federal share.

7/ Federal share of sunk costs. Assumes transfer of $118,000 in FY 1982 to complete preconstruction planning.

8/ Includes $3,439,000 in sunk costs.

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, D.C. 20310

19 JUL 1982

Honorable James Abdnor
Chairman, Subcommittee on
Water Resources
Committee on Environment and
Public Works
United States Senate
Washington, D. C. 20510

Dear Senator Abdnor:

Our answers to the Subcommittee's questions listed in your letter of June 24 are attached for your hearing record.

I do appreciate the opportunity to testify at the hearing of June 18. Please let me know if you need anything further.

Sincerely,

Bill Gianelli

William R. Gianelli
Assistant Secretary of the Army
(Civil Works)

Attachment

1. What reason exists to have the Federal Government involved at all in some of these projects, if the full cost of the project is to be non-Federal? Are there any procedures that can be avoided by this Federal construction approach? Would a new environmental impact statement or other requirements be required, if a project were turned over to the state? If so, please specify.

Answer:

a. In cases where the project has a single purpose of either hydropower or municipal water supply we see no reason why the Federal Government needs to be involved. Indeed, the vast majority of such projects nationwide are constructed and financed 100% by local agencies without any Federal participation at all. Where the project is multi-purpose, however, and includes such functions as the public health and safety function of flood control, Federal participation may well be justified. The same is true of large interstate projects. Finally, Federal participation may be justified in instances where an additional function, such as hydropower, is added to an existing Federal project.

b. Some procedures could be avoided, if the Federal Government constructs and owns the project. The Strube Lake hydro project in Oregon is a case in point. There, it is proposed that the Corps of Engineers would construct and own the authorized project with 100% non-Federal financing, and the local sponsors would receive the power output under suitable arrangements. The FERC licensing

procedures, additional environmental impact reports, and applications for Corps permits, all of which would be required if the local sponsor built the project on his own, would be avoided. On the other hand, certain procedures would be added, among which would be the negotiations of a contract with the Federal Government and the compliance with a procedure to select a non-Federal sponsor on a fair basis.

c. If such a project were turned over to a State, we believe that no additional environmental impact statement would be required. However, any Federal investment in the project would have to be recovered.

2. Will states, which finance a large portion of project costs, also obtain an increased role in planning projects? How?

Answer:

a. Yes - States which finance a large part of project costs will certainly obtain an increased role in planning. They will obtain such a role by virtue of their financial clout, which provides real incentives to both parties. If such a role is not given, the local participants will insist on it. We have already seen clear evidence of this increased local role in connection with our program for 1983 new construction starts, where the local sponsors are not at all reluctant to push their views on staging, sequence of construction, construction period, costs, etc. We will be obliged to accommodate them, wherever possible, so long as the scope of the project, as authorized by the Congress, is not significantly changed.

On the basis of long expetience, we are convinced that local money provides by far the most powerful of all devices for an increased local role in Federal project planning.

3. How will these new policies affect those states which cannot afford to finance new development? What will the impact of cost-sharing be on less affluent states?

Answer:

As I stated in my prepared statement, it is the expected benefits of a project that provide the basis for increased non-Federal financing of water projects and for higher levels of cost recovery from project beneficiaries. Our approach favors the productive projects, not the affluent states. Because our policies are tied to project benefits, and not to other factors, I see no reason for the less affluent states to lose out to the more affluent states.

4. In the case of flood control, is 35% the appropriate percentage? How did the Corps arrive at this number? What happens if richer states start to bid for projects offering higher percentages?

Answer:

a. We consider 35% to be appropriate in view of general Administration policy for a higher degree of cost-sharing based on the principle that beneficiaries should pay more than in the past for the direct project benefits they receive. Whether 35% is "the" appropriate figure can, of course, be debated. However, we know of no mathematical procedure whereby a practical answer could be developed. While the figure of 35% is somewhat subjective, it is founded on principles; these are explained further in our answer to the next part of this question.

b. The 35% figure was derived in the Assistant Secretary's office. The rationale was that flood damage reduction, unlike power and M&I water supply, is not vendible. In addition, it has public health and safety considerations, somewhat analogous to EPA's programs. The 35% represents about a doubling of the historical average local cost-sharing and is a major step toward the principle that beneficiaries should pay more, but it is not an unreasonably drastic change.

c. If richer States did offer to pay more than 35%, we might accept, but it would have no effect on the sequence and timing of projects we would recommend for construction - in other words, no higher priority would accrue vis-a-vis other projects. We will absolutely decline to engage in any such bidding war for projects. A fundamental principle of our program is no different deals with different people - otherwise we would have a shambles. Peripherally, we have had no hint of any such offers so far.

5. Please provide a list stating the number and the full cost of the new Corps of Engineers project starts recommended in the President's Budget in each of the past 15 fiscal years, together with the numbers for the new starts actually appropriated annually for the Corps by Congress.

Answer: The data requested is set forth on the attached tabulation.

ARMY CORPS OF ENGINEERS
NEW CONSTRUCTION STARTS

	BUDGETED		UNBUDGETED		APPROPRIATED		
Fiscal Year	Number	Total Estimated Federal Cost*	Number	Total Estimated Federal Cost*	Number	Total Estimated Federal Cost*	Notes
1968	8	152,530	29	155,215	33	177,445	1/
1969	6	28,453	2	2,310	8	30,763	
1970	11	381,540	23	178,926	34	560,466	
1971	16	828,866	32	578,249	48	1,407,115	
1972	8	119,832	19	214,419	25	279,293	2/
1973	13	451,730	18	689,433	31	1,141,163	
1974	5	68,769	17	710,947	21	729,616	3
1975	7	229,660	22	714,314	29	943,974	
1976	None		20	438,461	20	438,461	
1977	None		24	534,171	24	543,171	
1978	None		None		None		
1979	17	426,820	16	144,991	32	562,211	4/
1980	10	391,947	10	130,880	19	501,527	5/
1981	None		1	284,000	1	284,000	
1982	None		None		None		

*Cost estimates when budgeted/appropriated. In thousands of dollars.
1/Four budgeted new construction starts received appropriations for land acquisition only.
2/Two budgeted new construction starts were deleted by the Congress.
3/One budgeted new construction start was deleted by the Congress.
4/One budgeted new construction start was deleted by the Congress. Cost estimate includes $10 million for Tug & Levisa Forks project which was not authorized at the time. This project was given new start funds again in FY 1981.
5/One budgeted new construction start was deleted by the Congress.

6. Why should we begin any new projects until we have a new, overall cost-sharing and project expediting policy?

Answer:

To delay proceeding with productive and needed water projects in the interest of formulating comprehensive policy initiatives covering all situations is not justified in my view. The policies we are applying to FY 1983 Civil Works new construction starts are being consistently applied to all projects within a given category, and, they are clearly in accord with current trends and prevailing economic conditions.

7. How will you be handling the cost-sharing on small project authorities, where much can be achieved with some new starts in FY 1983?

Answer:

No money is included in the FY 1983 President's Budget for small project new construction starts. However, should economic circumstances and priorities permit budgeting for small projects in future years, we would apply the same cost-sharing policies to them as we would apply to the projects individually authorized by Congress.

8. What will be the impact if you go ahead at 35% on flood control, but the Soil Conservation Service holds to the old cost-sharing standards? What is being done to make things uniform?

Answer:

It is desirable, of course, for all agencies to have the same policies for the same type of activity. To that end, the Administration will shortly articulate a comprehensive statement of cost-sharing and financing policies which will cover all of the major water project purposes. Those policies will apply to the Bureau of Reclamation, the Soil Conservation Service, and the Corps of Engineers.

9. If a hydropower project is 100 percent financed by non-Federal sources, how will the power revenues be allocated? Similarly, who would receive water supply payments?

Answer:

Our concept is that the non-Federal sponsor financing 100% of a power project would receive all the output of the power plant by whatever device may be practical, legal, and fair. The sponsor would have to pay the Federal Government for (1) an appropriate share of any sunk costs if an existing Federal facility is involved, (2) any Federal expenditures for planning and design, and (3) any Federal costs for wheeling the power. All revenues from sale of the power by the sponsor would accrue to him.

In the case of water supply in a multi-purpose project (the Corps is not authorized to construct single-purpose water supply projects) the local sponsor would pay all of the project costs allocated to water supply. In return, he would receive all of the water supply developed by the project, and he would retain all of the revenues accruing from his sale of such supply. In effect, the Federal Government would sell the water to the local sponsor as it has historically; the main difference is that the local sponsor would pay for the water during the construction period instead of repaying over a long term.

10. When you began this process, you said that you were going to select "high-priority projects, which had no problems associated with them -- citizen opposition, environmental problems, etc...." I understand there is at least some opposition to the Randleman Dam project in North Carolina. Wouldn't you consider this opposition "a problem"?

Answer:

There is, indeed, some local opposition to the Randleman project; there is also strong support, not only by the State itself, but also by all six cities that would receive a water supply, as well as recreationists, flood control beneficiaries, Members of Congress, and others.

It is virtually never the case that any water project (or any other construction for that matter) receives unanimous approbation. Consequently, if it were required that any opposition would automatically kill the project, then no water projects at all could ever be built.

We do take any opposition seriously, and we respect it. Unless such opposition raises significant issues not previously considered, however, we must consider that the expression of support by the State must represent the overall community interest.

In the case of the Randleman Lake Project we do not think that the opposition constitutes a problem of such impact as to abandon a feasible and productive project.

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